

HOUSE BILL 1445
By Cochran

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to consumer credit reports.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following language as a new part 28:

Section 47-18-2801.

As used in this part, unless the context requires otherwise:

(1) "Consumer" means a natural person residing in the state of Tennessee;

(2) "Consumer report" means any written, oral, or other communication or any information collected, compiled, prepared, or maintained by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, debts, character, general reputation, personal characteristics, or mode of living, that is or may be used or collected, in whole or in part, as a factor to establish a consumer's eligibility for insurance or credit for personal, family, or household purposes, employment purposes, or any other purpose

authorized pursuant to applicable provisions of the Federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.; and

(3) "Consumer reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports.

Section 47-18-2802.

(a) Notwithstanding any provision of law to the contrary, a consumer reporting agency may furnish a consumer report only under the following circumstances:

(1) In response to an order of a court of competent jurisdiction;

(2) In accordance with the written instructions of the consumer to whom it relates; or

(3) To a person whom the consumer reporting agency has reason to believe:

(A) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished involving an extension or renewal of credit to, or review or collection of an account of, the consumer; provided, that such person establishes that the consumer has been informed that a credit report may be requested in connection with the credit transaction;

(B) Intends to use the information for employment purposes; provided, that a consumer is first informed that a credit report may be requested in connection with the consumer's application for employment and the consumer consents in writing;

(C) Intends to use the information in connection with the underwriting of insurance involving the consumer; provided, that such person establishes that the consumer has received written notification, or notification in the same medium as the application for insurance, that a credit report may be requested in connection with the consumer's application for insurance;

(D) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider a consumer's financial responsibility or status;

(E) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer; provided, that such person establishes that the consumer has been informed that a credit report may be requested in connection with the business transaction; or

(F) Intends to use the information for any purpose allowed under the Federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

(b) A consumer reporting agency may not, by contract or otherwise, prohibit a user of any consumer report or investigative consumer report from, upon request of the consumer, disclosing and explaining the contents of such report or providing a copy of the report to the consumer to whom it relates if

adverse action against the consumer has been or may be taken by the user of the consumer report, based in whole or in part on such report. No user or consumer reporting agency shall be liable or otherwise be responsible for a disclosed or copied report when acting pursuant to this subsection, nor shall such disclosure or provision of a copy of the report, in itself, make the user a consumer reporting agency.

Section 47-18-2803.

(a) A consumer reporting agency shall, upon written, oral, or electronic request and proper identification of any consumer, clearly, accurately, and in a manner that is understandable to the consumer, disclose to the consumer, in writing, all information in its files at the time of the request pertaining to the consumer, including, but not limited to:

(1) The names of all persons requesting credit information pertaining to the consumer during the prior six-month period and the date of each request;

(2) A set of instructions, presented in a manner that is understandable to the consumer, describing how information is presented on its written disclosure of the file; and

(3) A nationwide toll-free telephone number for use by consumers in answering questions or resolving disputes.

(b)(1) A consumer reporting agency shall notify a consumer, by letter sent by first-class mail, that the consumer reporting agency will provide the consumer with a disclosure copy of the consumer's file at no charge and a nationwide toll-free telephone number to call to request such copy, when one (1) of the following events occurs within a twelve-month period:

(A) The consumer reporting agency has received three (3) credit inquiries pertaining to the consumer; or

(B) The consumer reporting agency has received a report that would add negative information to a consumer's file.

(2) A consumer reporting agency need only send one (1) letter to a consumer per twelve-month period pursuant to subdivision (1) even if more than one (1) such event occurs in that period. Nothing in this subdivision shall prevent a consumer reporting agency from sending more than one (1) such letter per twelve-month period.

(3) Any letter mailed to a consumer pursuant to subdivision (1) shall not contain, other than the name of the addressee, any identifying information particular to that consumer including, but not limited to, social security number, place of employment, date of birth, or mother's maiden name.

(4) Any letter mailed to a consumer pursuant to subdivision (1) may be a form letter provided, that each letter shall advise the consumer of the number and type of events that occurred relating to the consumer who initiated the letter.

(5) Notwithstanding the provisions of section 47-18-1005, or any other law to the contrary, each consumer reporting agency shall, upon request of a consumer, provide the consumer with one (1) disclosure copy of such consumer's file per year at no charge, regardless of whether the consumer has made the request in response to the notification required in subdivision (1). If the consumer requests more than one (1) disclosure copy of such consumer's file per year pursuant to this subdivision, the consumer reporting agency may charge the consumer a

fee not greater than five dollars (\$5.00) for each additional disclosure copy.

Section 47-18-2804.

(a) Notwithstanding the provisions of section 47-18-1005, or any other law to the contrary, a consumer reporting agency shall not impose a charge for:

(1) A request for a copy of the consumer's file made within sixty (60) days after adverse action is taken;

(2) Notifying any person designated by the consumer, pursuant to the applicable provisions of the Federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., of the deletion of information which is found to be inaccurate or which can no longer be verified;

(3) A set of instructions for understanding the information presented on the consumer report and a toll-free telephone number that consumers may utilize to obtain additional assistance concerning the consumer report; or

(4) The first copy of a consumer disclosure provided to a consumer each calendar year pursuant to the provisions of this part.

(b) For all other disclosures to consumers of information pertaining to the consumer, the consumer reporting agency may impose a reasonable charge, not to exceed eight dollars (\$8.00).

Section 47-18-2805.

(a) In any private action, any consumer reporting agency that willfully fails to comply with any requirement imposed under this part with respect to any consumer shall be liable to the consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of such failure or one thousand dollars (\$1,000) whichever is greater. This

remedy is cumulative and supplemental to any other remedy contained in this chapter; provided, that the consumer shall elect between seeking actual damages under this subdivision and actual damages under section 47-18-109.

(2) Such punitive damages as may be assessed to deter future violations of this part; provided, that the consumer shall elect between seeking punitive damages under this subdivision and treble damages under section 47-18-109.

(b) In any private action, any consumer reporting agency which is negligent in failing to comply with any requirement imposed under this part with respect to any consumer shall be liable to that consumer in an amount equal to the sum of any actual damages sustained by the consumer as a result of the failure; provided, that the consumer shall elect between seeking actual damages under this subdivision and actual damages under section 47-18-109.

Section 47-18-2806.

A private action to enforce any liability created under this part may be brought within two (2) years from the date on which the liability arose or on which the consumer first knew or reasonably should have known that such liability had arisen, whichever is later. No action brought by the attorney general and reporter shall be subject to the limitation of actions contained herein.

Section 47-18-2807.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act, compiled at part 1 of this chapter. For the purpose of application of the Tennessee Consumer Protection Act, any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act

or practice affecting the conduct of any trade or commerce and subject to the penalties and remedies provided in that act.

(b) If the attorney general has reason to believe that any consumer reporting agency, or any person acting on behalf of a consumer reporting agency, has violated any provision of this part, the attorney general may institute a proceeding under this chapter.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it.